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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/501,653 | 07/15/2004 | Sanjay H. Patel | AMAGN,.0102 US | 5131 |

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CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

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| EXAMINER |
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HALIM, SAHERA

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| ART UNIT | PAPER NUMBER |
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2157

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/501,653 | Applicant(s) PATEL ET AL. | |
| | Examiner Sahera Halim | Art Unit 2157 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in respond to communication filled on March 16, 2006.
2. Claims 2-7 have been newly added.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2002/0123337 to Dharia et al (hereinafter Dharia) and further in view of U.S. Pat. No. 6,898,428 to Thorburn et al (hereinafter). Dharia discloses a system for data transmission and reception comprising (abstract):

a wireless data broadcast system broadcasting outgoing data from a data network to a plurality of users, the wireless data broadcast system further comprising (Fig. 1, element 123, 101, 111-n, MS):

a wireless data return path system receiving incoming data from the plurality of users and providing the incoming data to the data network, the wireless data return path system further comprising (page 1, [0005]; Dharia teaches an up link and down link for receiving and sending traffic between users and BTS):

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One or more wireless collector systems receiving data from a predetermined set of the plurality of users (page 1, [0005]; Dharia teaches the use of collectors to broadcast traffic);

Although the system disclosed by Dharia shows substantial features of the claimed invention, it fails to disclose:

one or more wireless broadcast repeaters and one ore more return path repeater systems receiving data from one or more predetermined wireless collector systems; and

wherein the system uses terrestrial line-of-sight broadcasting in conjunction with satellite data transmission systems.

However, in an analogous art, Thorburn teaches:

one or more wireless broadcast repeaters (Fig. 4d and col. 4, lines 42 –49) and one ore more return path repeater systems receiving data from one or more predetermined wireless collector systems (Fig. 4j and col. 5, lines 17 - 25); and

wherein the system uses terrestrial line-of-sight broadcasting in conjunction with satellite data transmission systems (abstract, Fig. 1, col. 2, line 52 – col. 3, line 46).

Given the teachings of Dharia and Thorburn, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantages of adding repeaters and using terrestrial line-of-sight broadcasting in conjunction with satellite in order to increase reliability.

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5. Regarding claim 2, Dharia teaches wherein the data network is the Internet (See Fig. 1).
6. Regarding claim 3, Dharia teaches the system of claim 1 wherein at least one of the plurality of users receives the outgoing data from one or more wireless broadcast repeaters with an antenna (Fig. 1, page 3, 0031 – 0036).
7. Regarding claim 4, Dharia teaches wherein the wireless data broadcast system further comprises one or more distributors to distribute the outgoing data from the wireless broadcast repeaters to the plurality of users (Fig. 1- 7 and page 3, 0036 – 0041).
8. Regarding claim 5, Dharia teaches wherein at least one of the plurality of users receives the outgoing data from the one or more distributors (Fig. 1-7, and pages 3, 0036 – 0041).
9. Claim 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dharia in view of Thorburn and further in view of Chu et al. U.S. Pat. No. 5,890,055 (hereinafter Chu).
10. Regarding claim 6, Dharia and Thorburn do not teach wherein the wireless data return path system further comprises a hub to broadcast outgoing data from the data network to the one or more wireless broadcast repeaters. However, it would have been obvious for a person having ordinary skill in the art at time of invention to combine the teachings of Dharia and Chu enable high speed transmission.
11. Regarding claim 7, Dharia and Thorburn do not teach wherein the hub also receives incoming data from the one or more wireless collector systems. However,

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Chu teaches wherein the hub also received incoming data from the one or more wireless collector systems (see fig. 1 –5 and col. 3 line 9 – col. 4 line 65). Therefore, it would have been obvious for a person having ordinary skill in the art at the time of the invention to combine the teachings of Dharia, Thorburn and Chu in order to enable high speed transmission.

Response to Arguments

12. Applicant's arguments filed March 16, 2006 have been fully considered but they are not persuasive.

13. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

14. In response to applicant's argument that Thorburn is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

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15. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

16. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the broadcast repeaters actually boost and retransmit the signal at a more appropriate frequency/power level to allow the end users to receive the signal") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sahera Halim whose telephone number is (571) 272-4003. The examiner can normally be reached on M-F from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sahera Halim
Patent Examiner

May 29, 2006


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER